BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of

XAVIER MARTINEZ, M.D.

Holder of License No. 18944
For the Practice of Allopathic Medicine in the State of Arizona.

CASE No: MD-18-0039A
REQUEST FOR LICENSE INACTIVATION WITH CAUSE AND ORDER INACTIVATING LICENSE WITH CAUSE

1. I, Xavier Martinez, M.D. ("Respondent"), am the holder of License No. 18944 to practice allopathic medicine in the State of Arizona.

2. I hereby request that, effective at 5:00 p.m. on the date of the following Order, the Arizona Medical Board ("Board") inactivate with cause my license to practice allopathic medicine number 14737 pursuant to A.R.S. §32-1452(F). I participated in the Board's Monitored Aftercare Program ("MAP"), currently referred to as the Physician Health Program ("PHP"), from October 9, 2008 through November 21, 2012 and no longer qualify for a confidential Board Order.

3. I will not practice medicine in Arizona or any other state, territory or district of the United States or a foreign country while my Arizona license is inactive. I may not hold or maintain a controlled substance certificate with the Drug Enforcement Administration or write or refill prescriptions as long as my license is inactive. If I practice medicine while my license is inactive I will be practicing medicine without a license and/or without being exempt from licensure, which amongst other things, is a felony.

4. I shall not request reactivation of my license to practice medicine in Arizona until I complete a long-term care residential program, an inpatient hospital treatment program, an intensive outpatient treatment program or any combination of these programs as required by A.R.S. § 32-1452(F) and subsequently complete an assessment with the
Board's PHP Contractor, and the Board is in receipt of the assessment findings and recommendations. I understand that I may also be required to complete other evaluations if deemed necessary by the Board. The Board will not reactivate my license until I present evidence satisfactory to the Board, in its sole discretion, that I am medically competent and mentally and physically able to safely practice medicine in the State of Arizona.

DATED this 9th day of May, 2018.

PHYSICIAN, M.D.

FINDINGS OF FACT

1. Respondent currently holds an active license to practice medicine in this state.

2. The Board initiated case number MD-18-0039A after receiving a self-report from Respondent that he had been charged with one count of Sexual Abuse, a Class 5 felony, in violation of A.R.S. § 13-1404(A).

3. The relevant Tucson Police Department report states that a female patient alleged that Respondent touched her inappropriately during an examination.

4. Effective November 29, 1994, Respondent was subject to a stipulation and Order with the board requiring him to utilize a female chaperone for all examinations of female patients, and to undergo counseling regarding boundaries with a Board approved counsel. The Stipulation was terminated on November 14, 1997.

5. In MD-07-0638, Respondent was issued a Letter of Reprimand and Probation with requirements including participation in MAP effective October 9, 2008 through November 21, 2012.
6. On April 9-11, Respondent participated in a psychosexual evaluation at a Board-approved facility. In addition to other findings, the facility evaluators opined that Respondent relapsed with his substance use disorder.

7. On April 17, 2018, Respondent pled guilty in CR20180324-001 to one count of attempted sexual abuse, a Class 6 undesignated offense.

8. Pursuant to A.R.S. § 32-1452(F), Respondent has requested that his license to practice medicine in the State of Arizona be placed on the status of Inactive with Cause.

CONCLUSION OF LAW

1. The Board possesses jurisdiction over the subject matter hereon and over Licensee.

2. The conduct and circumstances described above constitute unprofessional conduct pursuant to A.R.S. § 32-1401(27)(d) ("Committing a felony, whether or not involving moral turpitude, or a misdemeanor involving moral turpitude. In either case, conviction by any court of competent jurisdiction or a plea of no contest is conclusive evidence of the commission."). A.R.S. §32-1401(27)(f) ("Exhibiting a pattern of using or being under the influence of alcohol or drugs or a similar substance while practicing medicine or to the extent that judgment may be impaired and the practice of medicine detrimentally affected."). A.R.S. § 32-1401(27)(r) ("Committing any conduct or practice that is or might be harmful or dangerous to the health of the patient or the public.") and A.R.S. § 32-1401(27)(aa) ("Engaging in sexual conduct with a current patient or with a former patient within six months after the last medical consultation unless the patient was the licensee's spouse at the time of the contact or, immediately preceding the physician-patient relationship, was in a dating or engagement relationship with the licensee. For the purposes of this subdivision, "sexual conduct" includes: (i) Engaging in or soliciting sexual relationships, whether consensual or nonconsensual; (ii) Making sexual advances,
requesting sexual favors or engaging in any other verbal conduct or physical contact of a
sexual nature; and (iii) Intentionally viewing a completely or partially disrobed patient in
the course of treatment if the viewing is not related to patient diagnosis or treatment under
current practice standards.

ORDER

IT IS HEREBY ORDERED THAT:

1. License number 18944 held by Respondent is Inactivated with Cause.

2. Before Respondent can request that his license be reactivated, he shall
   successfully complete a long-term care residential program, an inpatient hospital
   treatment program, an intensive outpatient treatment program or any combination of these
   programs and shall meet the applicable requirements of A.R.S. §32-1431(D).

3. Once Respondent has completed treatment, the Board shall determine if it should
   refer the matter for a formal hearing for the purpose of suspending or revoking the license
   or to place Respondent on probation for a minimum of five (5) years with restrictions
   necessary to ensure public safety.

DATED this 9th day of May, 2018.

ARIZONA MEDICAL BOARD

By: Patricia E. McSorley
Executive Director

EXECUTED COPY of the foregoing mailed
this 9th day of May, 2018 to:

Xavier Martinez, M.D.
Address of Record
Law Offices of Gary Ford Spector
1646 North Stone Ave.
Tucson, AZ. 85705
Attorney for Respondent

ORIGINAL of the foregoing filed this
\underline{4th} day of \underline{\textit{May}}, 2018 with:

Arizona Medical Board
1740 West Adams, Suite 4000
Phoenix, Arizona 85007

\underline{\textit{Richard}}
Board staff